IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE D.S.R.VARMA

WRIT PETITION NO : 7659 of 2005

Between:

M/s. Raj Agro Products Pvt.Ltd., A Private Ltd., Company, Having its factory at plot NO.58/B/2, Kattedan, Hyderabad, rep.by its Managing Director Sri Raj Kumar Agarwal.

..... PETITIONER

AND

1.The Commissioner of police, Cyberabad, at Ranga Reddy District.
2.The Station HOuse officer, P.S.Rajendra Nagar, Cyberabad, Ranga Reddy District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction more particularly one in the nature of writ of Mandamus by declaring the action of the respondents in interfering with the manufacturing and trading activities of the petitioner company as illegal, arbitrary and unconstitutional besides violative of Article 19(1)(g) and Article 300A and consequently direct the respondents not to interfere with the business of manufacture of biscuits not covered by the order passed by the Bombay High Court in Notice of Motion No.924/2005 in suit No. 934/2005 and Trading activity of the petitioner company and pass such other order/s as this Hon'ble court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.B.CHANDRASEN REDDY

Counsel for the Respondent Nos.1 and 2: GP FOR HOME

The Court made the following:

THE HONOURABLE SRI JUSTICE D.S.R.VARMA

W.P.NO.7659 OF 2005

ORAL ORDER:

Heard both sides.

2. The petitioner is the defendant in two suits, being Suit No.934 of 2005 (which is filed by Britania Industries Limited) and Suit No.935 of 2005 (which is filed by ITC Limited), on the file the High Court of Judicature of Bombay. Both the suits were filed on the ground that the petitioner had infringed artistic work of the impugned labels. The products are biscuits. The High Court of Bombay passed interim orders in Notice of Motion No.924 of 2005 in Suit No.934 of 2005 and Notice of Motion No.925 of 2005 in Suit No.935 of 2005, which are similar, while appointing a Receiver, in the following manner:

> "That pending the hearing and final disposal of the Suit, defendants by themselves, its servants and agents be restrained by an order and injunction of this Hon'ble Court from in any manner using in relation to any biscuits or confectionery the impugned label marks SUNRISE and SUNRISE GLUCOSE or any other deceptively similar label mark so as to pass off or enable others to pass of the goods of the defendants as and for the goods of the plaintiffs."

3. Now, by virtue of the interim orders, referred to above, passed by the High Court of Bombay, the petitioner was injuncted from selling the abovesaid two products of biscuits viz., "Sunrise and Sunrise

Glucose" and "Trigger" with the same wrappers of the plaintiffs in the aforesaid two suits.

4. It is the contention of the learned counsel appearing for the petitioner that the petitioner has several other business activities in addition to the said two products of biscuits and that he is a manufacturer and seller of various other products and the respondents are not justified in interfering with his business activity in the products which are not covered by the aforesaid interim orders passed by the High Court of Bombay in the suits mentioned supra.

5. The present grievance of the petitioner is that though the order of interim injunction passed by the High Court of Bombay relates to only two products of biscuits viz., "Sunrise and Sunrise Glucose" and "Trigger", the respondents are interfering with the entire business activities of the petitioner with regard to several other products also, which are not connected with the suits mentioned supra. Hence, the present writ petition.

6. At the outset, the grievance of the petitioner, if it were to be true, deserves reapprisal. When the petitioner is involved in manufacturing and selling various other products (other than the products covered by the suits pending in the High Court of Bombay) and when he, in obedience to the interim orders passed by the High Court of Bombay, is not selling those two products of biscuits viz., "Sunrise and Sunrise Glucose" and "Trigger", which were referred to above, there is absolutely no justification for the respondents to interfere with the day-to-day affairs of the petitioner insofar as the other products are concerned i.e., manufacturing and selling etc.

7. For the aforementioned reasons, and having regard to the facts and circumstances, suffice it to dispose of the present writ petition with a direction to the respondents not to interfere with the day-to-day affairs i.e., administration or management or manufacturing or selling of other products that are being undertaken by the petitioner and any of the products, which are not covered by the prohibitory orders passed by the High Court of Judicature at Bombay in the aforesaid interim orders in Notice of Motion No.924 of 2005 in Suit No.934 of 2005 and Notice of Motion No.925 of 2005 in Suit No.935 of 2005.

8. With the above directions, the writ petition is disposed of, at the stage of admission. However, there shall be no order as to costs.

D.S.R.VARMA, J

06TH APRIL, 2005

NOTE:

Issue C.C. by tomorrow.

(BO)

KRK/JSU

To:

1.The Commissioner of police, Cyberabad, at Ranga Reddy District.
2.The Station HOuse officer, P.S.Rajendra Nagar, Cyberabad, Ranga Reddy District.

3.Two CCs to the Government Pleader for Home, High Court Buildings, Hyderabad (OUT).

4.Two CD copies.

THE HONOURABLE SRI JUSTICE D.S.R.VARMA

W.P.NO.7658 OF 2005

06TH APRIL, 2005